

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

2023 JAN -6 AM 9:56

MARGARET RITKINS, CLERK
CHEYENNE

UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING

STEPHEN P. KELLY,
General Delivery.
U.S. Post Office
BILLINGS, MT 59101,
Plaintiff,

23-cv-4-J

VS.

CITY OF POWELL POLICE DEPARTMENT,
a Wyoming Law enforcement
entity, and CALEB SCHMIDT, in
his official capacity, 250
N. CLARK STREET., POWELL, WY
82435,
Defendant(s).

CIVIL COMPLAINT

comes now the Plaintiff in the above styled action and does show cause for complaint as follows:

(1) This is an action sustained by, STEPHEN P. KELLY, hereinafter, Plaintiff KELLY, and sues the defendant's JOINTLY, and in their official capacities, CITY OF POWELL POLICE DEPARTMENT, a Wyoming Law enforcement entity, and CALEB SCHMIDT, in his official capacity, ALLEGING:

(A) Abuse of Authority, (B) UNLAWFUL intimidation by Law enforcement, (C) corrupt fabricated Police report, (D) a conspiratorial predicate act, and (E) coerced and concocted Version of material fact!

PARTIES

(2) Plaintiff STEPHEN P. KELLY, was a victim of check fraud, and filed an official police report with the city of POWELL Police department, and with police officer-defendant Caleb Schmidt!

(3) Governmental defendant, the city of POWELL Police department exists as a Wyoming Law enforcement entity, and obtains primary oversight of police officer, Caleb Schmidt, acting in his official capacity!

(4) Capacity defendant, CALEB SCHMIDT, acts in his official capacity as a clothed with authority police officer employed with the city of POWELL Police Dept.

NATURE OF THE CASE

(5) This concise case is predicated upon U.S. civil rights statute 42 U.S.C. § 1983, where a false and fabricated police report is generated at the hands of a corrupt and charge aggressive police officer!

(6) The severe aspects of a corrupt and knowing conspiratorial predicate act rises here!!

(7) A severe predicate act of unlawful intimidation at the hands of corrupt law enforcement personnel exists where a clothed with authority police officer has placed excessive and unreasonable pressure and an attempted concocted and frivolous confession by threat of prosecution upon this Plaintiff, where there is in fact a concealed biased in the

Unequal balanced investi-
-gation when a police officer
 is in ~~fact~~ a personal friend
of the actual original
suspect, as in a severe corrupt
turn and twist of the true
and actual material facts in
removing a sole victim party
into a suspect with no
plausible merit what so
ever! In this specific case
 there is a clear violation of
Fourteenth Amendment
secured pursuant to the equal
protection of the Law clause!

(8) while the U.S. Supreme
 court authorized a confession
played by a lying police officer,
the specific meaning and
legal definition was clearly
not intended to merely
harass, intimidate, or force
a person of clear innocence to
admitting any guilt when
such party is clear of the
false and malicious accus-
-ations based by a police
officer, where a party is in
fact entitled to remain

Silent and may very well prevail during a jury trial process!!! once a forced confession is made, then it is most complex for one to prevail in a criminal jury trial!!! The true and actual meaning of this Supreme court ruling is very often abused and clearly misinterpreted by corrupt Law enforcement personnel!! If the understanding of a coerced confession as is so abused by Law enforcement, then it would in fact exist as so unjust, and even unconstitutional!!!!

(9) This specific case here may be later need to re-visited on certiorari!

JURISDICTION AND VENUE

(10) This federal court obtains subject matter jurisdiction pursuant to 42 U.S.C. § 1983!

(11) Natural defendant, a uniformed police officer is in fact a state actor, and is liable under 1983!

(12) Natural defendant, is clothed with state authority, and acts under color of Law!

(13) Governmental defendant's, the city of Powell Police department, exists as an official city entity under the governance of the state of Wyoming, and is liable under 42 U.S.C. § 1983.

(14) Plaintiff, STEPHEN P. KELLY, is a citizen and resident of the state of Montana, and resided in the state of Wyoming during such time of initial incident!

(15) Natural defendant, CALEB SCHMIDT, is a resident of the state of Wyoming, and has resided in Wyoming at all times material to this action.

(16) Governmental defendant's, are a sole Wyoming Law enforcement entity, and are obligated in which to enforce legislations solely within the governed state of Wyoming!

(17) The damage amount in dispute is in excess of; \$75,000.

(18) This federal court obtains further judicial jurisdiction, where Plaintiff here/KELLY, is in clear compliance with the federal court abstention doctrine, where there are in fact no criminal charges filed by the Park County attorney, or not by any other agency filed upon KELLY! The Park County attorney's office has made clear to KELLY, that

there exists no intent to file of any criminal charges, as KELLY, had already filed a civil lawsuit within this same court upon his bank. KELLY, vs. First Bank of Wyoming, et-al. CASE NO. # 2:22-cv-00258-ABJ. Date filed - 12/12/2021!

(19) Venue is proper in the District of Wyoming because each event giving rise to this action occurred in the District of Wyoming. 28 U.S.C. § 1391.

STATEMENT OF FACTS

(20) This civil complaint is clearly plausible upon its face where while the federal constitution most clearly does not secure any protection of citizen's by law enforcement, the specific issue here rises as a corrupt predicate conspiratorial act, and corruption at the hands of law enforcement personnel!

(21) On December - 12th, 2022,
KELLY, in fact filed a civil
action / Lawsuit upon his bank,
the First bank of Wyoming, and
he named within the confines
of the civil complaint a corrupt,
and Violative banking personnel,
(Diana Schwantes), acting in
her official capacity! A related
 case exists; No. #2:22-cv-00258-
 ABJ, (Exhibit-A).

(22) Solely a few days later, on
 December - 15th, 2022, joint
bank personnel - Bob Golden,
 Diana Schwantes, and Jessi
 Watts, in a severe act of
retaliation engaged into an
unLAWFUL conspiratorial predicate
act of a concocted and fabricat-
-ted story, falsely claiming
 that KELLY, had written an
 N.S.F. check, where Schwantes,
 engaged into a severe unlawful
 act, and arranged a conspiracy,
 with bank customer - Chad
 Flemming to in fact forge
one of KELLY'S check'S and
directed Flemming to attempt

to cash the same at the
Powell bank branch in a
severe corrupt turn and
twist in which to cause a
false presentation upon KELLY,
and a fabricated appearance
that KELLY, had actually
written the check executed
to Chad Flemming! A severe
conspiratorial act exists
here !!!

(23) BECAUSE KELLY, was in
fact already litigating upon
the bank, Watts, Golden, and
Schwantes, jointly, and in a
combined conspiratorial
predicate act engaged into
a corrupt turn and twist in
which to right out frame
KELLY, falsely asserting
that KELLY, had engaged
in to a criminal act!

(24) KELLY, had in fact
already reported Schwantes,
and Watts, to the federal
Bureau of investigations
financial institution fraud
unit in Salt Lake city,

which investigates
racketeering activity of
a corrupt enterprise
 pursuant to the federal
 (RICO) statutes!

(25) on December-27th, 2022,
 bank executive personell,
 (Bob Golden), entered a
 telephone into KELLY, and
noted to KELLY, that a party,
(chad Flemming), had in
fact entered into the Powell
bank branch and attempted
to cash one of KELLY's, bank
check's, where Mr. Golden,
made clear to KELLY, that
the hand witting upon this
concise check, clearly
conflicted with the hand
witting of KELLY's, official
signature on file with the
bank!!

(26) Setting KELLY, up, Mr.
Golden, advised KELLY, to
inquire with the Powell
police department in which
to file an official police

Report sufficing forgery, and
fraud!

(27) Attempting to do the
right thing, and a step in
which to take corrective
action, KELLY, in fact based
a police report with the city
of POWELL police department,
where city police officer,
caleb schmidt, was assigned to
investigate this specific case,
however, a severe biased and
sincere conflict of interest
existed where this specific
police officer here sued is
in fact a very close and
personal friend with original
suspect - chad Flemming,
and it just so happens that
officer schmidt, is also a
personal friend with bank
personnel, (Diana Schwantes),
whom which KELLY, was
already suing prior to this
concise investigation at the
hands of clearly a biased
police officer, (caleb schmidt)!

(28) clearly knowing the above, officer/defendant, Schmidt, refused to recuse and remove himself from this biased investigation, in clear and severe violation of KELLY's, civil rights secured under the Fourteenth Amendment, "[Equal Protection of the Law]"!!!

(29) subsequent to a very brief, and even so much a value investigation per officer/defendant - Schmidt, Schmidt, contacted KELLY, and in a very harsh and threatening tone defendant - Schmidt, commenced into accusing KELLY, of basing a false police report, and of bank fraud, in a severe manipulation of the true and actual material facts of the real event's of this issue, in a corrupt cover up, and a corrupt turn and twist of what actually rose, in which to protect his/schmidt's

personal friend from
criminal prosecution, in
 Schmidt, in a tone of clear
 anger quoting to KELLY, that
KELLY, was now at the status
of a suspect instead of
initial victim status!!

(30) In showing here clear
plausibility in this claim
of the violation of civil
rights engaged into in a
corrupt predicate act of a
cover up, and severe biased, at
the hands of defendant -
Schmidt, the defendant, here,
Schmidt, refused with clear
intent to remove himself
from such biased and confi-
-cted investigation, and to
assign this specific case over
to a non-biased police officer,
or investigator, in clear
violation of the (equal
protection clause), secured
under the Fourteenth
Amendment!!! When dealing
 with any government agency/
entity - state, federal, or
local city entity, then the

United States Constitution
and civil rights protections
applies!

(31) This action is clearly a
federal civil rights suit under
42 U.S.C. § 1983!

(32) A claim of unlawful
intimidation exists here,
where Plaintiff KELLY, shows
that defendant, Schmidt,
most unlawfully, harassed,
intimidated, pressured by
threat of criminal prosecution,
and attempted to coerce KELLY,
in his recorded police phone
conversation between KELLY,
and officer Schmidt, where
during a third phone convers-
-ation on December-27th,
2022, officer/defendant,
Schmidt, made a clear quote to
KELLY, that he/Schmidt,
would ensure a thirty (30) year
prison sentence upon KELLY,
in the event that KELLY,
refused at that precise
moment and time to; (4)

confess upon a recorded
police line to fraud; (b) a
false police report, and (c)
that KELLY, had better
withdraw the pending civil
lawsuit which KELLY, had
filed upon Diann Schwantes,
in her official capacity, as
a staffing personnel of
corporate defendant's - First
Wyoming bank. (see copy -
civil docket sheet; Secondary
listed defendant). Exhibit - (A).
These all were the exact
word's and quotes per officer
Stueb Schmidt! A sincere
motion to compel, and a
judicial subpoena will later
be filed per Plaintiff KELLY,
sufficing the production of
the recorded police phone
conversation between KELLY,
and officer - Schmidt, during
the disclosure and discovery
process prior to a civil jury
trial in this civil case!

(33) Rising to much more
plausibility in this action,
officer/defendant - Schmidt,
did in fact officially charge
KELLY, with fraud, and a
false police report at the
cause that KELLY, right out
refused to comply with the
above articulated three
demands of officer/defendant,
however, the Park county
attorney, refused to file any
criminal charges upon KELLY,
where KELLY, still yet,
suffered one and a half
week's of, worry as to being
charged; excessive emotional
distress; and hardship in a
thought pattern of being
sent to prison over a
crime at which he most
certainly did not engage
into, placed upon him at the
sole hands of defendant -
Caleb Schmidt!

(34) sufficing civil
Liability upon the named
defendant, the city of
POWELL police department,
Plaintiff KELLY, in fact
reported this corrupt police
misconduct of officer
Schmidt, to the Powell police
chief, however, with clear
knowing and intent, the
Powell police chief took no
steps of corrective action,
and in fact condoned the
corrupt actions of officer
Schmidt! KELLY, spoke
directly with the Powell
police chief!

INJURY

(35) As to intimidative threat
of prosecution, and the severe
threat of being sent to prison
for a lengthy time period, KELLY,
suffered, worry; emotional
distress; and mental hardship;
of those terrible thoughts

placed upon him at the hands
of a corrupt police officer!!

CLAIM ONE

(36) PLAINTIFF KELLY'S civil
rights to equal protection under
the Law secured by the
Fourteenth Amendment, were
clearly violated at the hands
of a biased police officer, in
result of a severe biased criminal
investigation!

CLAIM TWO

(37) UNLAWFUL intimidation
exists where a clothed with
authority police officer coerced
PLAINTIFF KELLY, into admitting
to two crimes at which PLAINTIFF
most certainly did not engage
into, with a corrupt threat of
prosecution, Placing unreasonable
fear upon KELLY, of a lengthy
prison sentence!! PLAINTIFF did
not confess to the two crimes!

CLAIM THREE

(38) A conspiracy and predicate act exists here where a clothed with authority police officer, and State actor fabricated and right out lied within the confines of an official police report / a government document, falsely asserting that KELLY, quoted certain information at which implicated KELLY, of guilt, while it is clear that the U.S. Supreme court ruled that an investigating police officer may in fact lie to a suspect in which to obtain a coerced confession, yet, it is clearly prohibited under law, State and Federal in which for a police officer to lie or to fabricate false information in an official police report!! This was in fact a severe predicate conspiracy between officer / defendant Schmidt, jointly and combined with criminal suspect - chad Flemming, in which to most falsely turn and twist the

investigation in removing
Plaintiff from a sole victim
into a criminal suspect !!

CLAIM FOUR

(39) The meaning of the U.S.
Supreme court was most
certainly to not ensure that
an "[innocent]" person be in
error, or by sincere mistake
prosecuted !!!

CLAIM FIVE

(40) Abuse of law enforcement
rises here where an officer
obtaining such authority has in
a most corrupt avenue and turn
and twist imposed + threat of
prosecution upon KELLY, solely,
in the event that KELLY,
continued to refuse to confess
to fraud, and a false police report !!

RELIEF

WHEREFORE, upon the premises considered, it is most respectfully requested upon this Honorable court for the entry of a civil judgment as follows:

(A) Find this civil complaint PLAUSIBLE upon its face!

(B) Find that a cognizable LEGAL theory EXISTS where this Honorable court can in fact draw a reasonable inference that the defendant's are in fact LIABLE for the severe misconduct ALLEGED.

(C) A civil jury trial is so requested.

(D) Find that the concise claims within this civil complaint are in fact drawn upon the merit of clear plausibility instead of mere possibility!!

(E) ACTUAL damage awards in a financial amount of; \$265,000, or another reasonable amount as deemed proper by this court.

Mental and emotional distress,
and worry causing emotional
hardship upon Plaintiff.

I Declare under penalty of perjury the foregoing to be true and correct.

Signed this 3rd, Day of January, 2023.

Stephen P. Kelly
(SIGNATURE OF PLAINTIFF)

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U.S. District Court
District of Wyoming (Cheyenne)
CIVIL DOCKET FOR CASE #: 2:22-cv-00258-ABJ

Kelly v. First Bank of Wyoming et al
Assigned to: Honorable Alan B Johnson
Referred to: Honorable Kelly H Rankin
Cause: 28:1332 Diversity-Other Contract

Date Filed: 12/12/2022
Jury Demand: None
Nature of Suit: 190 Contract: Other
Jurisdiction: Diversity

Plaintiff**Stephen P Kelly**

represented by **Stephen P Kelly**
General Delivery
U.S. Post Office
Billings, MT 59102
PRO SE

V.

Defendant

First Bank of Wyoming
a Wyoming corporation

Defendant

First Bank of Wyoming Teller
Supervisor
in her official capacity
also known as
Diann Schwantes

Date Filed	#	Docket Text
12/12/2022	<u>1</u>	COMPLAINT FOR DECLARATORY JUDGMENT, INJUNCTIVE RELIEF, SPEEDY HEARING AND DAMAGES filed by Stephen P Kelly (Filing fee \$ 402: IFP filed) (Attachments: # <u>1</u> Envelope, # <u>2</u> Consent) (Court Staff, stbd) Modified text on 12/13/2022 (Court Staff, sbh). (Entered: 12/12/2022)
12/12/2022	<u>2</u>	MOTION to Proceed In Forma Pauperis filed by Plaintiff Stephen P Kelly. (Court Staff, stbd) (Entered: 12/12/2022)

EXHIBIT - (A)

PACER Service Center	
Transaction Receipt	
12/14/2022 13:11:43	
PACER Login:	crystaltoner
Client Code:	

23-cv-4-J

Per: Stephen P. Kelly

RECEIVED

JAN 06 2022

CLERK, U.S.D.C.
CHEYENNE, WYOMING

To: CLERK, U.S. Dist. Court.

Note/Important! The specific mailing address upon the enclosed civil complaint is proper, & active for me!

Note! I am well aware that in any event that I relocate mailing addresses that I am clearly obligated in which notify your office in an official notice of change of mailing address, and I most certainly will do so!!!

In some of my other cases pending in your courtified court, at times the post office in Billings where I reside will make a mistake, if your office had any returned mail to your office in my cases!

Before long I may in fact open up a post office which would be much better for me! Again, I will clearly notify your office of any changes of mailing addresses!! Thank you so much!

#2.

Enclosed is an original I.F.P. application, signed & dated by me.

Also enclosed, is an original civil complaint also signed & dated by me obtaining my original signature!

I will soon after this concise civil complaint is in fact docketed per your office, I will then file a special motion for service of process under a rule (4) waiver to be ordered by the judge, or the U.S. magistrate!

once an order of service of process is in fact directed by the judge/court, then official copies of the civil complaint will in fact be generated directly out of your offices official computer system, obtaining the assigned case numeration upon the face of each page!

Please docket this concise case, & its I.F.P. application. Again, I will clearly keep your office notified of any address change!
Thank's much! Stephen P. Kelso.

#3.

P.S. clerk, also upon the face of the I.F.P. application where there is a space for district of Wyoming, being that there is in fact solely one district for the federal court in Wyoming I left the initial line blank!

ALSO there is an attached exhibit to the civil complaint, and is clearly marked.

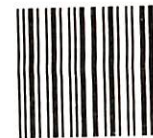
Thank you so much again!

Stephen L. Kelly,
General Delivery,
U.S. Post Office,
Billings, Montana 59101

Billings, Montana 59101



RDC 23



82001

U.S. POSTAGE PAID
FCM LG ENV
HARLAN, IA
51537
JAN 03, 23
AMOUNT

\$2.16

R2304W120346-15

To: CLerk, United States District Court.
Federal Courthouse.
2120 Capital Ave., Rm. # 2131
cheyenne, Wyoming 82001